

REMARKS

In response to the above identified Office Action, Applicant amends the application and seeks reconsideration thereof. In this response, no claims have been added, no claims have been cancelled, three claims have been amended. Accordingly, claims 56-68 and 89 are pending.

I. Claims Rejected Under 35 U.S.C. § 102

The Examiner has rejected claims 51, 54, 55 and 89 under 35 U.S.C. § 102 as being anticipated by Kaminski, U.S. Patent No. 5,273,433 (“Kaminski”). Applicant respectfully traverses this rejection.

It is axiomatic that to anticipate a claim, each and every element of claim must be disclosed within a single reference. In this instance, Applicant submits that Kaminski fails to teach or suggest inferring the extent of the knowledge of a user. Applicant has also amended claim 51 and claim 89 to make it clear that this inference is from the observation of the activity of the user. This amendment merely makes explicit that which was previously implicit. In any case, Kaminski fails to teach or suggest an inference on any level. The Examiner has directed Applicant’s attention to column 2, lines 44-47 which reads “it is thus possible to both test the student’s comprehension of a language and to provide the student, on demand, instantaneously, various forms of additional helpful information.” Nothing in this language provides any indication that an inference has taken place.

Moreover, this language which is also cited as teaching the last element of Applicant’s claim “automatically adjusting the form of assistance to a user” is also not taught or suggested by this reference. The mere fact that a provision of various form of additional information is available “on demand” requires that the demand be present. Thus, it cannot be said that a such

adjustment is occurring automatically. For at least the forgoing reasons requested that rejection of claims 51, 54, 55 and 89 be withdrawn.

With respect to claim 55, Applicant has amended claim 55 to make clear that it is the speed at which the content is played that is adjusted. In rejecting this claim the Examiner directs Applicant attention to a standard rewind feature and indicates that this provides a basis for adjusting the speed of playback. However, Applicant respectfully submits that a rewind button does not change the speed at which a player plays a sequentially adjacent words as set forth in amended claim 55. For this additional reason it is respectfully requested that the rejection of claim 55 be withdrawn.

II. Claims Rejected Under 35 U.S.C. § 103

The Examiner has rejected claims 52, 53 and 63 under 35 U.S.C. § 103 as being unpatentable over Kaminski in view of Sameth U.S. Patent No. 5,882,202 ("Sameth"). Applicant respectfully traverses this rejection.

Applicant respectfully submits that the addition of Sameth fails to cure the deficiencies discussed above in connection with claim 51 from which claims 52, 53 and 63 all depend. Thus, these claims are at least patentable as dependent on a patentable independent claim.

The Examiner has rejected claims 56-58 and 62 under 35 U.S.C. § 103 as being unpatentable over Kaminski in view of Sameth in further view of Tallal, U.S. Patent No. 6,071,123 ("Tallal"). Applicant respectfully traverse this rejection.

Applicant respectfully submits that Tallal fails to cure the deficiencies discussed above in connection with the rejection of claim 51. Thus, claims 56-58 and 62 are at least patentable as dependent on a patentable independent claim. Moreover, Applicant respectfully submits there is

no motivation to combine Tallal with either Sameth or Kaminski. A tenet of patent law is that to properly combine references there must be a motivation within the references themselves or provided by the problem to be solved to justify the combination. Combining a device for enhancing speech recognition amongst the hearing impaired with a foreign language teaching aid violates this tenet. Moreover, there is no explanation of how such a combination would operate given to disparate technologies involved. For at least these reasons, Applicant respectfully requests the rejection of claims 56-58 and 62 be withdrawn.

The Examiner has rejected claims 59-61 and 64-66 under 35 U.S.C. § 103 as being unpatentable over Kaminski in view of Siefert, U.S. Patent No. 5,904,485 ("Siefert"). Applicant respectfully traverses this rejection.

As an initial matter, Siefert again fails to cure the deficiencies of Kaminski discussed in connection with claim from which claims 59-61 and 64-66 depend. Thus, these claims too are patentable as dependent on a patentable independent claim.

Turning now to the claims individually, with respect to claim 59, Applicant respectfully submits that the Siefert reference fails to teach automatically pausing the content during playback at a point and for a duration based on the extent of the knowledge this begs the questions whether either reference teaches inferring the knowledge as required by the independent claim. However, assuming, for the sake of argument only, that such inference were present, the notion of automatically pausing content during playback is completely absent from both references. Siefert doesn't deal with content as the term is used by Applicant. There is no notion of video or audio content originally produced primarily for purposes other than language learning. Siefert deals with lesson plans and lessons taught in a traditional online educational environment. To the extent that Siefert involves any streaming content that may render the

notion of pausing meaningful, there is no teaching or suggestion in Siefert that such pausing actually occurs. Siefert discloses that based on a profile generated for a student the material to be presented to the student may be automatically selected. Thus, a third grade student would get level appropriate instruction as would a college student. However, none of this has any bearing on whether or in what context the material may be paused.

Claim 60 which depends from claim 59 has the additional limitation that additional content is automatically offered during the pause. This again, is neither taught or suggested by Siefert.

Regarding claim 64 there is no notion of analyzing sources of information when the analysis is to identify information of interest in a segment in the original content (that being the original content produced primarily for reasons other than language learning).

Analogous reasoning applies to claim 65. Thus, for these additional reasons the rejections of claim 59, 60, 64 and 65 should be withdrawn.

Applicant further submits that the combination of Siefert with Kaminski is based on inappropriate hindsight. Kaminski is a self contained system that uses VCR's to play a local educational product while Siefert is a web enabled remote computer assisted education system one of ordinary skill in the art would not be motivated to combine the references without the guidance of Applicant's disclosure. For this additional reason this rejection should be withdrawn.

The Examiner has rejected claim 67 and 68 under 35 U.S.C. § 103 as being unpatentable over Kaminski in view of Lotvin, U.S. Patent No. 5,907,831 ("Lotvin"). Applicant respectfully traverses this rejection.

Applicant respectfully submits that these claims are patentable as dependent on a patentable independent claim, as Lotvin fails to cure the deficiencies as discussed above in connection with Kaminski. Moreover, Applicant respectfully submits that the combination of Lotvin with Kamniski is inappropriate for VCR technology employed in Kaminski is inconsistent with the network environment of Lotvin such that one of ordinary skill in the art would not be motivated to combine the two. For this additional reason it is respectfully submitted that the rejection should be withdrawn.

In view of all of the forgoing, it is respectfully submitted that the rejections under section 103 should be withdrawn.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending, patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN LLP

Dated: 5/5/06

Thomas Coester
Thomas M. Coester, Reg. No. 39,637

12400 Wilshire Boulevard, Seventh Floor
Los Angeles, California 90025
(310) 207-3800

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Melissa Stead 5-5-06
Melissa Stead Date